

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

ADAM KANUSZEWSKI, et al,  
*Plaintiffs,*

Case No.: 18-cv-10472

v.

Hon. Thomas L. Ludington,  
District Court Judge

MICHIGAN DEPARTMENT OF  
HEALTH AND HUMAN  
SERVICES, et al,  
*Defendants*

Hon. Patricia T. Morris,  
Magistrate Judge

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**MOTION FOR ENTRY OF ORDER SETTING NEW DEADLINE  
ON PLAINTIFFS' RESPONSE TO STATE DEFENDANTS' MOTION TO  
DISMISS UNTIL PLAINTIFFS' MOTION TO STRIKE IS DECIDED**

NOW COMES Plaintiffs, by counsel, and requests this Court to enter an order extending the Plaintiffs' response brief due date or deadline in responding to the State Defendants' *Motion to Dismiss* (ECF No. 21) until the pending Plaintiffs' *Motion to Strike* (ECF No. 23) said filing is fully decided. Should the Court strike the State Defendants' *Motion to Dismiss*, a new deadline would be automatically reset by the State Defendants having to refile their corrected Rule 12(b)(6) motion. Absent that relief, however, the response to the improper State Defendants' *Motion to Dismiss* is currently due May 8, 2018. See E.D. Mich. L.R. 7.1(e)(1)(B). Without relief by this motion, Plaintiffs' must work on a large response which might all be for naught. Such would be an unnecessary waste of time and resources for counsel and the litigants. As such, this motion's reasonable relief is sought to save previous party resources and time.

The Court is requested to extend Plaintiffs' deadline at least 21 days from the date of the motion decision on Plaintiffs' *Motion to Strike* (ECF No. 23) unless the Court strikes the State Defendants' motion/brief.

Pursuant to E.D. Mich. L.R. 7.1(a), counsel for Plaintiffs and State Defendants have directly spoken. The State Defendants declined to provide this express relief by stipulation. However, in fairness to brother counsel, he did agree to a fixed extension of time to respond (i.e. 21 more days from May

8, 2018) in lieu of a floating deadline as proposed above. The difficult problem (for both sides) is that there is no indication or set understanding of when the Court will decide the *Motion to Strike*. Plaintiffs' *Motion to Strike* (ECF No. 23) goes to the heart of what this Court is allowed or not allowed to consider as part of the State Defendants' Motion to Dismiss. Therefore, in an abundance of caution and prudence, this motion is submitted.

## BRIEF IN SUPPORT

Federal Rule of Civil Procedure 6(b)(1)(A) permits a party to seek an enlargement of time on motion if a request is made before the original time or its extension expires. Moreover, this court has the inherent power to control the disposition of the causes [i.e. motions] on its docket with economy of time and effort for itself, for counsel, and for litigants. *Landis v North American Co.*, 299 U.S. 248, 254 (1936); see also *Ohio Env'tl. Council v. U.S. Dist. Court, S. Dist. of Ohio, E. Div.*, 565 F.2d 393, 396 (6th Cir. 1977).

## RELIEF REQUESTED

WHEREFORE, this Court is requested to extend Plaintiffs' response briefing due date on the State Defendants' *Motion to Dismiss* (ECF No. 21) until a reasonable amount time (i.e. 21 days) after this Court renders a decision on Plaintiffs' *Motion to Strike* (ECF No. 23) said filing for economy of time and effort for itself, for counsel, and for litigants.

Date: April 20, 2018

RESPECTFULLY SUBMITTED:

/s/ Philip L. Ellison

**OUTSIDE LEGAL COUNSEL PLC**

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## CERTIFICATE OF SERVICE

I, the undersigned attorney of record, hereby certify that on the date stated below, I electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel or parties of record.

Date: April 20, 2018

RESPECTFULLY SUBMITTED:

/s/ Philip L. Ellison

**OUTSIDE LEGAL COUNSEL PLC**

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